

## **REMARKS**

This Amendment is responsive to the outstanding Office Action. Reconsideration of the rejections of Claims 1-10 and 13-19 is respectfully requested. Allowance of the claims of this application is requested.

### **Drawing Correction**

A proposed drawing sheet is attached which contains corrections to Figure 2. No new matter has been included. No changes were believed necessary to Figure 1. It is respectfully submitted that the “color coded cap corresponding to the color shaded row” is already provided as illustrated at reference numeral 82 in Figure 1. A discussion of this subject matter is set forth in the original specification, Page 4, beginning at Line 17. In the event additional changes are believed necessary, the Examiner is requested to contact the undersigned. The proposed drawing corrections are believed to overcome the items pointed out in the Office Action, and reconsideration of the outstanding rejection is requested.

### **The §103 Rejections**

Reconsideration of the rejection of Claims 1-5, 7-10 and 13-15 as being obvious under 35 U.S.C. §103 over U.S. Patent No. 5,995,938 to Whaley in view of U.S. Patent No. 5,102,169 to Mayfield is respectfully requested.

Claim 1 recites “a color-coded sheet; said sheet depicting one or more rows, wherein one or more of said rows are color shaded....” No such limitation is provided by either Whaley or Mayfield or their combination. The Office Action correctly points out that Whaley does not disclose color shading of rows, but then cites Mayfield, Figure 2 and Col. 7, Lines 6-8, as reciting a reminder system to supply the missing feature of Whaley. Unfortunately, no color shaded rows are provided by Mayfield. While “color” may be discussed in Mayfield for use with the marking elements 18, there is no disclosure or suggestion to provide color shaded rows of a matrix. Applicant’s system includes color shaded rows on a color coded sheet. Mayfield does not disclose the use of color shaded rows. Although the Office Action indicates that Applicant’s colored rows would be obvious in view of Mayfield, this does not appear to be the case, as providing such shaded rows in Mayfield would detract from one’s ability to recognize

the marking elements used by Mayfield. Thus, Mayfield does not teach or suggest the recited invention. The combination of Whaley with Mayfield does not render the claimed invention obvious, and reconsideration is requested.

Claims 4-5 additionally provide limitations related to the type of information provided as well as the type of markings provided within Applicant's reminder system. The Office Action attempts to argue the obviousness of the structural relationship between printed matter and the substrate in attempt to disqualify the recited limitations. With respect to patients being medicated for specific ocular problems, the use of readily visible and distinguishable instructions does provide improved functionality to applicant's reminder system. As a result, the specific form of the markings in dependent claims 4 and 5 does in fact provide them with a new relationship with respect to the system. Claims 4 and 5 recite allowable subject matter.

Reconsideration of the rejection of Claims 6, 16, 18 and 19 with respect to the combination of Whaley, Mayfield with the addition of U.S. Patent No. 5,992,888 to North, is also respectfully requested. As previously indicated, the combination of Whaley with Mayfield fails to provide Applicant's recited invention which includes color shaded rows. The addition of North does not cure this failing. Specifically, the Office Action first indicates that Whaley and Mayfield fail to provide advertising markings and coupons, and then adds that North discloses a reminder system. This is not the case. North is a point of sale transaction record. The North sales record is used at the time of a business transaction to record the amount of a sale. Nothing about the device and method disclosed by North can be considered a reminder system of the type recited by Applicant. Neither Mayfield nor Whaley nor one of ordinary skill in the art would look to a sales transaction record to create a patient reminder system. Moreover, the prior art either alone or in combination, does not provide any structure capable of performing the intended use of the claimed invention. The use of the North reference in combination with Mayfield and Whaley is an impermissible hindsight reconstruction and reconsideration is respectfully requested.

Reconsideration of the rejection of Claim 17 as obvious over Whaley in view of U.S. Patent No. 4,295,664 to Cutting is also respectfully requested. The Cutting reference provides a record-keeping system for use, for example, by a hospital to maintain a record of drugs given to a patient. The system is provided in a package of forms, and includes a cover page and multiple

transfer sheets underneath which enable the cover sheet to be copied and the transfer sheets removed for use at other locations. Whaley provides a computer generated reminder which generates a form. Again, the combination of Whaley with Cutting does not result in applicant's claimed invention nor render it obvious. As the combination of Whaley with Cutting does not result in the claimed invention, nor render it obvious, the combination is in error. Reconsideration of this rejection is strongly requested.

With respect to the dependent claims 2-3, 7-10, and 13-15, additional claimed subject matter is likewise recited which is believed to justify allowance of these claims which depend from allowable independent claims.


### CONCLUSION

It is noted that Claims 4 and 10 have been amended to address typographical errors uncovered during the present review of the claims. Claims 1-10, and 13-19 patentably and unobviously distinguish over the references of record and are in condition for allowance. Notice to that effect is respectfully requested.

Respectfully Submitted,

Date: \_\_\_\_\_

1/7/04

  
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